

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

HENRY J. PRIEN,
Plaintiff,
v.
GARY LUCAS *et al.*
Defendants.

Case No. 07-5647 RJB/KLS

ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL

Before the Court are Plaintiff's motions for appointment of counsel. (Dkt. # 10 and 13). Having reviewed the motions and balance of the record, the Court finds for the reasons stated below that Plaintiff's motions should be denied.

I. DISCUSSION

There is no right to have counsel appointed in cases brought under 42 U.S.C. § 1983. Although the court, under 28 U.S.C. § 1915(d), can request counsel to represent a party proceeding *in forma pauperis*, the court may do so only in exceptional circumstances. *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986); *Franklin v. Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984); *Aldabe v. Aldabe*, 616 F.2d 1089 (9th Cir. 1980). A finding of exceptional circumstances requires an evaluation of both the likelihood of success on the merits and the ability of the plaintiff to articulate his claims *pro se* in light of the complexity of the legal issues involved. *Wilborn*, 789 F.2d at 1331. Neither of these factors is dispositive and both must be viewed together before reaching a decision on request of counsel under Section 1915(d). *Id.*

1 Plaintiff has demonstrated an adequate ability to articulate his claims *pro se* and has not
2 demonstrated that the issues involved in this case are complex or that he has had any difficulties in
3 expressing them. Plaintiff complains that he is not trained in the law and that he has limited access
4 to a law library. (Dkt. # 13). However, the difficulties claimed by Plaintiff are of the type which
5 any litigant would have in proceeding pro se, they do not indicate exceptional factors.

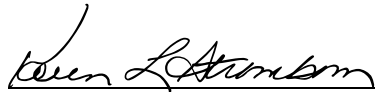
6 Plaintiff also claims to suffer from bipolarism, ADHD and anxiety attacks but states that he
7 cannot support this claim because jail officials refuse to provide him with his medical records.
8 Plaintiff has not offered any evidence that Plaintiff's conditions prevent him from presenting his
9 claims or that records have been requested and withheld by prison officials.

10 In addition, Plaintiff has not demonstrated that there is a likelihood of success on the merits
11 of his claims.

12 Accordingly, the Court finds that counsel is not necessary in this case and Plaintiff's motions
13 to appoint counsel (Dkt. # 10 and 13) are **DENIED**.

14 The Clerk is directed to send copies of this Order to Plaintiff and counsel for Defendants.

15 DATED this 24th day of January, 2008.

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19 Karen L. Strombom
20 United States Magistrate Judge
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